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David Legg and Daniel S. Mason, *Autonomic Dysreflexia in Wheelchair Sport: A New Game in the Legal Arena?*, 8 Marq. Sports L. J. 225 (1998)

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AUTONOMIC DYSREFLEXIA IN WHEELCHAIR SPORT: A NEW GAME IN THE LEGAL ARENA?

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I. INTRODUCTION

Sporting opportunities for persons with physical disabilities have grown dramatically since shortly after the Second World War, when the first international wheelchair games held at Stoke Mandeville Rehabilitation Hospital in England drew twenty athletes from three countries.¹ In contrast, the 1996 Paralympic Games—the disability equivalent of the Olympic Games—featured three thousand athletes representing over

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1. The number of athletes participating has increased dramatically:

Year	Host City	# of Athletes	# of Countries
1952	Stoke	130	2
1960	Rome	400	23
1964	Tokyo	390	22
1968	Tel Aviv	750	29
1972	Heidelberg	1000	41
1976	Toronto	1600	42
1980	Arnhem	2500	42
1984	New York/Stoke	4080	42
1988	Seoul	3053	61
1992	Barcelona	3020	82
1996	Atlanta	3195	103
2000	Sydney	4000 (projected)	125

ROBERT STEADWARD et al., *PARALYMPICS: WHERE HEROES COME FROM*, 37-38 (1997); Robert Steadward, *Sport Excellence and the Paralympic Movement*, Presentation to the Finalist Candidate Cities of the Games of the XXVII Olympiad 2004, Lausanne, Switzerland, June 24, 1997.

one hundred countries, and has become one of the world's largest sporting events.² The rapid growth of the Paralympic movement unquestionably represents a significant advance for athletes and persons with disabilities. However, this expansion has also led to organizational problems, as the movement itself has at times been unable to react to such growth with appropriate strategies, protocols, or other responses.³ In addition, many other problems have crept into the disability realm, often due to the adoption of characteristics and practices common to the dominant able-bodied sport system.⁴

One such problem is performance enhancement. Already a contentious issue in able-bodied sport, a watershed incident occurred during the 1988 Seoul Olympics, when Canadian sprinter Ben Johnson was stripped of his gold medal in the Games' showcase one hundred meter event.⁵ Johnson "won" the race, in world record time,⁶ until it was revealed that he had been using steroids to improve his performance. The subsequent Canadian Commission of Inquiry, addressing the problem of illegal performance enhancement, chaired by Justice Charles Dubin,⁷ "focused an unprecedented public attention on high performance amateur sport in Canada."⁸ The Inquiry resulted in widespread commentaries on fair play and the need for drug free sport.⁹

2. Robert Steadward, *Integration and Sport in the Paralympic Movement*, 5 SPORT SCIENCE REV. 26 (1996).

3. See Garry Wheeler, et al. *Retirement From Disability Sport: A Cross Cultural Analysis*, ADAPTED PHYSICAL ACTIVITY Q. (forthcoming 1998).

4. *Id.*

5. The Ben Johnson fiasco created unprecedented attention on drug use for performance enhancement in elite-level sport. See Michael Bamberger & Don Yaeger, *Over the Edge: Aware That Drug Testing Is a Sham, Athletes to Rely More Than Ever on Banned Performance Enhancers*, SPORTS ILLUSTRATED, Apr. 14, 1997, at 64. For a further discussion of the Johnson incident, see D. WALLECHINSKY, *THE COMPLETE BOOK OF THE SUMMER OLYMPICS* (1996).

6. Johnson's time was 9.79 seconds. Wallechinsky, *supra* note 5, at 16-17.

7. See CHARLES DUBIN, COMMISSION OF INQUIRY INTO THE USE OF PERFORMANCE-ENHANCING DRUGS AND BANNED PRACTICES INTENDED TO INCREASE ATHLETIC PERFORMANCE (1990).

8. MARJORIE BLACKHURST, et al., VALUES AND ETHICS IN AMATEUR SPORT, prepared for FITNESS AND AMATEUR SPORT CANADA 7 (1991).

9. The Dubin inquiry addressed a number of ethical issues that were becoming increasingly problematic within Canadian sport. While the primary focus appeared to center on illegal performance enhancement, other issues, including the values of fair play and the government's role in sport, also emerged. See, e.g., BLACKHURST, et al., *supra* note 8. The VALUES AND ETHICS IN AMATEUR SPORT document summarized the feelings and values gleaned from a wide variety of stakeholders within Canadian sport. The result pointed toward the need for sweeping changes in the leadership, education, and morality of the country's sporting pursuits.

Although problems associated with performance enhancement became more prominent in international athletics, similar issues within disability sport remained unknown and received little publicity. However, within four years of the Ben Johnson fiasco, a similar scandal arose involving David Kiley, captain of the United States gold medal winning wheelchair basketball team at the 1992 Barcelona Paralympic summer games. Kiley and other members of his team were stripped of their gold medals after he tested positive for using a mild painkiller containing a banned substance.¹⁰ Kiley subsequently took the International Paralympic Committee (hereinafter "IPC") to court, but ultimately lost a decision in the Switzerland-based Court of Arbitration for Sport.¹¹ Two years later, at the 1994 World Powerlifting Championships for the Physically Disabled, held in Upsala, Sweden, more athletes were found guilty of using banned substances. In addition, in 1995, a high-profile Canadian wheelchair athlete was caught by Canadian sport officials using the banned substance stanazolol,¹² the same drug Ben Johnson had tested positive for in Seoul, seven years earlier.

10. International Paralympic Committee Web Site, <http://info.lboro.ac.uk/r. .book/sec2ch08_1.html>. The International Paralympic Committee has adopted the same banned substance list that is published by the International Olympic Committee. The rationale behind the decision was that the IPC hoped to move toward an elite athlete model of governance, and away from a disability model. According to the *Tribunal Arbitral du Sport/Court of Arbitration for Sport*, Kiley had sustained an injury to his right big toe during a training session one week prior to the Barcelona games. As a result of the injury, Kiley was unable to sleep, and to relieve his discomfort, Kiley's coach, Harry Vines, gave Kiley a single tablet of Darvocet, which had been prescribed to Vines for his own back pain. Although Vines did not find Darvocet on the banned substance list in the Medical Controls Guide, the drug did include the banned substance dextropropoxyphene. Kiley was given the Darvocet by Vines on September 8, 1992, however, Kiley took the drug on September 12 when the pain from his injury continued to disturb his sleep. The following day, the USA won the gold medal game against the Netherlands. Immediately after the game, Kiley provided an "A" and "B" urine sample, and on September 15, he tested positive for dextropropoxyphene. See *National Wheelchair Basketball Association v. International Paralympic Committee*, TAS 95/122 (Lausanne, 03.1996) *Tribunal Arbitral du Sport/Court of Arbitration for Sport*; Andy Miller, *Loss Still Bitter Pill for Kiley*, ATLANTA J. & CONST., Aug. 24, 1996, at E8.

11. *National Wheelchair Basketball Association*, TAS 95/122.

12. *Drug Ban for Wheelchair Athlete; The Dope on Drug Testing*, EDMONTON J., Nov. 15, 1995, at D1. Several athletes had been involved in controversies surrounding the use of performance-enhancing drugs. One athlete had tested positive for anabolic steroids at the 1991 Foresters Games. However, he won an appeal in May of 1992 and was re-instated as a member in good standing of the Canadian Paralympic Team. Shortly thereafter, he was given a short-notice, unannounced drug test, and tested positive; he was given a four year suspension, beginning May 26, 1992. Board of Directors' Meeting Minutes, CANADIAN WHEELCHAIR SPORTS ASSOCIATION/ASSOCIATION CANADIENNE DES SPORTS EN FAUTEUIL ROULANT, Vancouver, B.C., May 23, 1992. Another athlete tested positive for anabolic steroids on an unan-

While the transgressions of the disabled athletes discussed above are similar to the illicit practices of able-bodied athletes, a unique disability-associated method of performance enhancement has emerged in recent years. Known as *Autonomic Dysreflexia* (hereinafter "AD"), it involves athletes who self-inflict bodily harm in order to obtain a naturally-occurring bodily response, that can lead to performance enhancement. A disability sport athlete, with a spinal cord injury, inflicts this injury below the lesion¹³ level, where he/she does not receive the sensation of pain. The athlete is thus able to obtain a physiological reaction without the corresponding pain that an able-bodied athlete would experience. This process can only occur in persons with a spinal cord injury above the sixth thoracic vertebrae, which is commonly referred to as quadriplegia.¹⁴ The dysreflexic response includes a bodily reaction similar to an enormous adrenaline rush. This boost has been shown to enable athletes to achieve better performances in sporting events such as wheelchair racing.¹⁵ In this manner, performance improvement does not incorporate the ingestion of illegal or harmful substances. Instead, athletes, particularly wheelchair athletes, deliberately injure themselves below the lesion level to generate the appropriate autonomic response. The issues surrounding this practice became more publicly prominent at the 1996 Atlanta Paralympic Games.¹⁶ To respond to this potential problem, the IPC was placed in a precarious position; the body overseeing international disability sport would have to choose between the ethical (and legal) implications of protecting the health of its athletes, and the moral implication of mandating an overly paternalistic protocol of

nounced doping test on April 9, 1992, and was given a four-year suspension commencing on that date. *Id.*

13. The term "lesion" is used to specify the point at which the spinal cord has been injured.

14. Quadriplegia refers to a loss of sensation in all four limbs; it does not necessarily mean that all four limbs are paralyzed.

15. Serge Raymond, a Canadian quadriplegic athlete, reported that many "quad" athletes recognized the performance advantages to intentionally inducing an AD response; Serge Raymond, *Boosting*, VISTA '93 - THE OUTLOOK 242 (Robert D. Steadward, et al., eds. 1994). Pursuing Raymond's comments from a 1993 conference on disability sport, a detailed study by the Rick Hansen Centre in Edmonton, Alberta revealed that athletes inducing this response could expect a 9-10% decrease in times for track events. It was also noted in this study that anecdotal evidence suggested over 80% of quad athletes at the elite level practiced the intentional induction of an AD response; see R. Burnham, et al., *Intentional Induction of Autonomic Dysreflexia Among Quadriplegic Athletes for Performance Enhancement: Efficacy, Safety and Mechanism of Action*, 4 CLINICAL J. OF SPORT MEDICINE 1 (1994).

16. Tom Watson, *Health Concerns Make IPC Wary of Boosting*, USA TODAY, Aug. 21, 1996, at C3; Andy Miller, *Boosting a Health Concern*, ATLANTA J. & CONST., Aug. 20, 1996, at D7.

protecting the "handicapped."¹⁷ After significant research, debate, and a greater understanding of the implications of uncontrolled autonomic dysreflexia responses, the IPC eventually responded with a process of selective testing prior to each race.¹⁸

This paper examines AD in the context of recent efforts to control and reduce the likelihood of AD being used to enhance the performance of wheelchair athletes. Given that this issue has only recently emerged, and the international nature of athletic competition, this paper does not focus on potential legal remedies to this new disability sport concern. Instead, this paper presents an overview of the process of Autonomic Dysreflexia, its potential dangers, and the efforts of governing bodies in disability sport—to this point—to detect and stop AD as a means of performance enhancement. Having done so, it is the hope that an increased awareness of the issues surrounding AD in disability sport may be of value to the legal community worldwide.

II. AN OVERVIEW OF AUTONOMIC DYSREFLEXIA

The human body has a number of means of sensing and reacting to painful stimuli. In an able-bodied athlete the Autonomic Nervous System (hereinafter "ANS") allows the athlete to respond quickly to a painful stimulus. This process is efficient and effective because of rapid communication between its two branches: the sympathetic and parasympathetic. The sympathetic system is responsible for reactions in the face of danger and is commonly known as a "fight or flight" response. The parasympathetic system is responsible for dampening the magnitude of the sympathetic response, and for energy conservation functions such as digestion. Thus, these two branches have complementary roles; when one is activated the other is suppressed in a negative feedback loop. This is possible only because they have different routes from the Central Nervous System (hereinafter "CNS").¹⁹

As the message of the painful stimulus ascends from the pelvis up the spinal cord pathways, reflex nerve connections are made with the cell bodies of the sympathetic nervous system between the first thoracic and

17. Sport for the disabled had, early in its history, been perceived as focusing more on the *disability*, and less on the *sport*. This is due to the roots of disability sport in the area of rehabilitation. In an effort to focus more on sport, the International Paralympic Committee has attempted to move away from a paternalistic medical focus.

18. Robert Burnham, et al., *The Implications of Boosting to Enhance Performance*, *ATHLETIC THERAPY TODAY*, Jan., 1997, at 39.

19. D. Finocchiaro & S. Herzfeld, *Understanding Autonomic Dysreflexia*, 90 *AMERICAN J. OF NURSING* 56 (Sept., 1990).

first lumbar levels of the spinal cord. The sympathetic cell bodies quickly send messages to multiple organs via the chemical transmitters, noradrenaline and adrenaline, which helps the body to prepare for fight or flight. More specifically this process constricts blood vessels to distribute blood to muscles; causes the heart to pump more blood by increasing the rate and strength of contraction; relaxes lung airway muscles to allow freer breathing and causes mental alertness. In the able-bodied individual, the pain message eventually ascends the entire length of the spinal cord and reaches the brain so there is conscious perception of pain. Additionally, messages from the base of an able-bodied persons' brain are sent down the spinal cord to the sympathetic cell bodies to dampen or control the magnitude of the fight or flight response.

However, an athlete who has incurred a spinal cord injury above the mid thoracic vertebral level has a much different response to pain from the lower extremities or pelvis. Although the painful stimulus message can start ascending the lower one half of the spinal cord and can reflex connection with most of the sympathetic cell bodies, the message cannot get past the level of spinal cord injury. Similarly, messages from the base of the brain cannot be sent down the spinal cord to suppress the effects of the sympathetic cell body activity. This results in two effects; the athlete with a spinal cord injury does not perceive the pain or remove himself from the source of the injury; and the sympathetic response (adrenaline and noradrenaline) is uncontrolled and exaggerated. One manifestation of this is a rise of the systolic blood pressure to as high as 300 mgHg (milligrams of mercury) in response to an excessively full bladder. These levels can result in cerebral hemorrhage or death.²⁰

When this response is triggered, the body still attempts to compensate for the different signals. As the carotid bodies in the neck detect a rise in blood pressure, they stimulate the parasympathetic response of vasodilation above the level of injury. Normally, the parasympathetic system would recognize that this was occurring and would intentionally slow the heart rate down. However, because of the broken feedback loop, the parasympathetic response is not strong enough to lower the blood pressure and so it continues to rise. Thus, because the parasympathetic system is unable to communicate with the body below the lesion, half of the body tries to relax while the other continues to fight or flight. These contrasting signals result in two unique cardiovascular effects—heart rate slows; while the blood vessels below the lesion level continue

20. Burnham, et al., *supra* note 18, at 37; Penny Adsit & Cynthia Bishop, *Autonomic Dysreflexia - Don't Let it be a Surprise*, 14 ORTHOPAEDIC NURSING at 17 (May/June 1995).

to constrict, which can produce dangerous blood pressure imbalances. While the result of these two responses may be termed as an emergency for the medical community,²¹ for an athlete the immediate result is a massive boost of energy.²² In other words, the athlete incurring this type of response creates what is called a "fight or flight" reaction, "when your hair stands on end, your blood pressure goes up, your pulse increases. . . You just get ready to fight or flight and obviously it is an adrenaline surge and it is very useful if you happen to be competing at the time."²³

AD²⁴ was first described eighty years ago, when excessive sweating was associated with bladder distention in spinal cord injury patients.²⁵ However, it was only in the early 1990s that AD's association with performance enhancement in disability sport became a prominent topic, when several reports recognized that up to ninety percent of wheelchair quadriplegia athletes were intentionally inducing an autonomic response to obtain a performance boost.²⁶ Burnham attributed phenomenal improvements in racing times to this practice.²⁷ Many athletes who recognized AD's apparent performance-enhancing effects soon began experimenting with intentionally inducing an AD response. Typical methods to induce this response include clamping the catheter, bladder distention by fluid ingestion, tight leg strapping, or deliberately inducing lower limb trauma.²⁸ The athlete is able to endure these painful stimuli simply because he/she cannot feel pain below the T6 level (sixth thoracic vertebrae level).

While inducing AD has been shown to have positive performance benefits, it still represents a serious medical concern. Blood pressure elevations associated with a dysreflexic response have resulted in cerebral hemorrhage, blindness, aphasia, seizure, cardiac dysrhythmia, retinal hemorrhage, apnea, cardiac arrest and death.²⁹ Typical blood pressure

21. K. Eltorai, et al., *Fatal Cerebral Hemorrhage Due to Autonomic Dysreflexia in a Tetraplegic Victim: Case Report and Review*, 30 *PARAPLEGIA* 355 (1992).

22. Burnham, et al., *supra* note 18, at 37.

23. Michael Riding, *Doping in Disability Sport*, *VISTA '93 - THE OUTLOOK* 210 (R.D. Steadward, et al., eds., 1994).

24. Also called Autonomic Hyperflexia.

25. See Henry Head & George Riddoch, *Autonomic Bladder, Excessive Sweating, and Some Other Reflex Conditions in Gross Injuries of the Spinal Cord*, 40 *BRAIN* 188 (1917).

26. Burnham, et al., *supra* note 15, at 1; Raymond, *supra* note 15, at 431.

27. Burnham, et al., *supra* note 15, at 1.

28. For a more detailed description of the methods used by athletes, see Raymond, *supra* note 15, at 242. Also refer to Chapter 2 of the BRITISH WHEELCHAIR SPORTS FOUNDATION DOPING CONTROL RULES contained in the appendix to this article.

29. Adsit & Bishop, *supra* note 20, at 17. There have yet to be any documented cases of such medical emergencies occurring in a sport setting.

for a person with quadriplegia in a sitting position is 90/60, but can increase up to 220/120 during a period of dysreflexic response.³⁰ Impaired sweating capability due to SCI, coupled with exaggerated skin vasoconstriction associated with AD, could also put an individual with a high SCI at risk of hyperthermia, particularly in hot environments, common in many track event sites. These concerns, however, have not been documented in a sporting environment with elite athletes; thus, the potential for harm for this group has remained purely speculative.

In spite of a lack of documentation of AD effects on athletes with a disability, governing bodies, including the Canadian Wheelchair Sports Association (hereinafter "CWSA"), began addressing concerns of athletes engaging in self-induced AD responses. For example, during the CWSA meetings in December of 1993, AD was included in a discussion of anti-doping. Two motions were made: 1) although inducing AD, or "boosting" was not universally condoned as a performance enhancer, the CWSA would only support an objective testing procedure to determine intentional AD, given the difficulties in detecting when intentional or natural inducement occurred; and 2) because of AD's medical implications, there was a need to inform persons of the danger and prevention methods surrounding AD.³¹ This stance was confirmed by CWSA Athletics Director, Colin P. Timm, in a memorandum sent to CWSA members in January of 1994.³²

In addition, the IPC was not willing to be passive observers to this potential problem, due to its possible detriment to the disabled athletes and their competitive environment. The IPC had been aware of the AD issue, but addressing this problem would prove difficult for several reasons.³³ Testing athletes for potential self-induced AD responses would prove more difficult, however, as episodic bouts of unintentional AD are common in the daily lives of many quadriplegics,³⁴ and punishing an athlete for a naturally occurring response would serve no purpose in reducing intentional AD. Another potential problem in testing revolved

30. Burnham, et al., *supra* note 18, at 37.

31. *Athletics Section Annual General Meeting*, CANADIAN WHEELCHAIR SPORTS ASS'N., Dec. 3-5, 1993, at 18.

32. Colin P. Timm, *Athletics Section Meeting Highlights*, (Memorandum), Jan. 26, 1994.

33. This concern had already been expressed by the CWSA.

34. Finocchiaro & Herzfeld, *supra* note 19, at 58. Unintentional AD can occur in a person who has a lesion (normally painful to an able-bodied person) below the T6 level. This may be caused by the catheter being knotted, a pressure sore, or unknowingly sitting on a sharp object. "[I]n up to 80% of quadriplegics, transient bouts of autonomic dysreflexia occur as a result of common medical experiences such as bowel or bladder spasms, decubitis ulcers, ingrown toenails, etc." Burnham, et al., *supra* note 18, at 38.

around the use of fluid ingestion to induce AD. However, pre-race fluid ingestion is not unusual for any elite athlete, and is seen as a necessary component to race preparation.³⁵ As quadriplegic athletes were not ingesting any illegal or banned substance, determining acceptable levels of hydration, and finding an appropriate testing procedure would prove difficult.³⁶ The final problem faced by the IPC to limit athletes using AD has been in the Committee's own definitions of doping. Doping can be defined as the administration or use of any substance foreign to the athlete's body, or of any physiological substance taken in abnormal quantity or taken by abnormal route of entry into the body with the sole intention of artificially increasing performance in competition.³⁷ Thus, while an AD response was potentially performance enhancing, and could result in deleterious effects to competitors, the intentional induction of AD did not contravene any specific rules. Recognizing these concerns, the IPC continually debated their responsibilities and ability, as an international sports federation, to somehow find a suitable means through which the interests of both the organization and the competitor could be protected, while also recognizing the individual rights of the athlete.

At the 1996 Atlanta Summer Paralympic Games, the IPC passed what they deemed to be an appropriate response to problems surrounding AD. For the first time, Paralympic officials attempted to prevent athletes from inducing AD by monitoring competitors' blood pressure prior to racing. IPC medical staff checked athletes for signs of "boosting" approximately twenty minutes prior to competition, and took blood pressure measurements if they showed any of the symptoms of AD, such as sweating, pale skin, and goosebumps. If the pressure was significantly elevated, then the athlete was given time to lower it. If blood pressure

35. Both able bodied and disabled athletes will often drink large quantities of water prior to long distance track events, such as the marathon or 10,000 meters.

36. The traditional method of testing an athlete for illegal performance enhancing agents is to obtain a urine sample for analysis following an event. Intentionally-induced Autonomic Dysreflexia is undetectable following a race. Marathoners will often induce the response during the race just before more taxing segments of the course, such as hills, or at times when an extra boost of energy is needed, such as efforts to overtake a competitor. Once the race has been completed the symptoms will no longer be present. Some sport governing bodies such as the British Wheelchair Sports Federation have now listed a number of practices that are prohibited (*see* Appendix). These include deliberate clamping or obstruction of the catheter, deliberate excessive tightening of strapping, deliberate twisting or sitting on the sportsman's scrotum, and deliberate prolonged sitting in the race chair or on the equipment for the purpose of artificially raising a racer's blood pressure.

37. IPC Web Site, *supra* note 10.

remained high, the medical officers could rule that the athlete was unable to compete for safety reasons.³⁸

In this manner, the IPC could prevent intentional AD responses by taking measures to help the more general health and well being of all competitors. If a person was discovered in this state, and his/her situation appeared potentially dangerous, the IPC felt they had the right to remove the athlete from competition for safety reasons. The decision arose from communications among members of the IPC Medical Committee, who concluded that this was a fundamental health issue, and based on the Committee's obligations to the athletes, warranted intervention.³⁹ This reasoning was also appropriate, given the risk of accusing an athlete who was merely experiencing a naturally occurring response of cheating. At the executive meeting of the IPC in August 1996, the medical officer submitted for ratification the following *Regulations Concerning Competitor Fitness*.⁴⁰ In summary, the document reported that:

- 1) Boosting is "of particular concern" and dangerous to the health of the competitor.
- 2) Examinations may be undertaken prior to races in the call-up room and warm-up areas. They may include the testing of systolic and diastolic blood pressure levels, pulse rate, level of sweating, the presence or absence of skin blotching, anxiety, and tremors.
- 3) In the event of signs of AD, an athlete is retested at 10 minutes. Subsequently, an inspection may be undertaken in relation to cutaneous, visceral, and proprioceptive stimuli known to cause AD.
- 4) The appropriate authorities may withdraw the competitor from the particular event in question if the competitor is deemed to be at risk.⁴¹

These policies were presented during the Paralympic Games to the Chef de Missions of the national teams at 8:00 a.m. on August 13, 1996,⁴² and were included as part of the organizing committee's medical guide. The

38. Burnham, et al., *supra* note 18, at 39.

39. Although there are no examples of athletes dying from an intentional AD response, evidence from the medical literature suggests that that it is a potentially dangerous, if not fatal, situation for the athlete.

40. Burnham, et al., *supra* note 18, at 39.

41. *Id.*

42. Dr. Michael Riding, Director of the IPC Medical Commission presented the changes to the Chef de Missions on the 7th day of the Paralympic Games in Atlanta (July 23, 1996). These changes had been previously ratified by the IPC's Executive Committee.

athletes affected by the policy change were informed immediately. For the remainder of the games, members of the IPC Medical Committee examined athletes in the marshaling areas, and when necessary, blood pressure readings were taken. No competitors were required to withdraw from competition.⁴³

III. IMPLICATIONS

The concerns of the IPC addressing the AD issue, are well founded; deliberately inducing an AD response is a potential health risk, and undermines the fairness of competition for those who do not engage in the practice. As in many other areas of society, the procedures and efforts of governing bodies will be challenged and scrutinized in the legal arena, which will ideally result in modifications that are in the best interests of society. However, there are a number of broader issues that must also be resolved. From a human rights perspective, what rights do athletes have in terms of their personal autonomy and self determination, particularly for those who have been traditionally subjected to overly-paternalistic guardianship from other groups in society? Since AD has not been proven harmful—to this point—*during competition*, it may be argued that athletes have the right to pursue AD as a means of pursuing competitive improvement.⁴⁴ However, studies in other settings have revealed that AD is potentially lethal; perhaps problems have only yet to occur in a competitive athletic setting, and the IPC appears to be taking a proactive stance. For this reason, should athletes have the right to engage in the practice of boosting? The potential implications of legal de-

43. The fact that no athletes were caught is intriguing. One might come to two conclusions from this: 1) athletes were aware that they might be caught inducing AD pre race, and therefore, the procedure acted as a deterrent for potential boosters; or 2) the procedure was ineffective in detecting athletes intentionally inducing an AD response. However, a fundamental problem remains, as many athletes could probably control the onset of AD after the start of a race (specifically in marathons). Since the medically dangerous period occurs pre-race, when the athlete is not engaged in exercise, the medical concerns surrounding AD could be reduced should athletes induce AD during the race, and not prior to it. Thus, while it could be concluded that the pre-race testing might reduce potential health concerns, the moral issue of boosting remains. Did athletes continue to use AD to increase their performance at the Atlanta Games? Perhaps the best comparison would be to look at able bodied sport. Are steroids still used at the Olympics, even though there are few competitors that are caught each competition? The likelihood of some athletes—both able and disabled—using performance enhancing procedures will continue as long as gains can be achieved and new means of avoiding detection can be used. The fact that AD appears so widespread, and no athletes were caught in Atlanta, may lead to a sense that control mechanisms are inadequate, and also reflects the cautious behavior of judges worrying about wrongly detecting an athlete. In an increasingly litigious society, these problems should continue.

44. Burnham, et al., *supra* note 18, at 39.

cisions concerning this practice must be couched in moral and medical considerations, combined with ethical principles of fair play.

Given the international nature of competitive disabled sporting competition, the problem of boosting may have far-reaching legal implications. For example, what parties are responsible or liable for harm arising out of boosting? To what extent does the individual freedom of the athlete supersede the need for athlete protection? These are tenuous questions given AD's relatively recent arrival; to this point we have only seen a sporting body's response to this potential problem. According to Burnham, because "the institution of science has documented use, efficacy and potential harm of AD, a reasonable approach of governing bodies would be to curtail the practice."⁴⁵ Only time will tell whether the efforts of such bodies to reduce deliberate AD responses have been effective.

IV. CONCLUSION

Although practices such as AD are potentially dangerous, athletes with disabilities appear willing to take the necessary risks. In able-bodied sport, centimeters and hundredths of a second can mean the difference between financial glory or no rewards at all. In comparison, athletes with a disability find few financial rewards and public adulation is sparse. Nevertheless, competing (and winning) provides strong personal rewards. Self esteem as an athlete, developing a renewed sense of independence and control, and coping with a disability, all appear to be linked to athletic excellence.⁴⁶ These reasons may in fact be more powerful than any financial gain, and an athlete with a disability may be more willing to sacrifice a great deal simply for the opportunity to see his/herself as competitive and worthy, in an effort to claim or reclaim a stronger sense of self-esteem and self-worth.

This article has sought to review a unique problem that has emerged in competitive disability sport. Appropriate governing bodies have already reacted to try to reduce AD in disability sport, because of the potentially harmful effects to its competitors. In this article we have revealed some of the underlying issues surrounding the problem. If this problem continues to grow, and existing governance mechanisms are unable to control boosting, the resulting consequences may only be remedied through legal channels. Given the recent growth in participation in

45. Burnham, et al., *supra* note 18, at 39.

46. See Wheeler, et al., *supra* note 3. This article examined the importance of sport in the lives of persons with a disability.

disability sport, the use of AD as a performance enhancer, and efforts to curtail boosting, one might assume that legal practitioners will increasingly encounter issues surrounding this problem in the future. Recognizing this possibility, it is the hope that this article has provided a brief overview of a future “player” in the legal arena.

APPENDIX

BRITISH WHEELCHAIR SPORTS FOUNDATION
DOPING CONTROL RULES

Adapted by the Sports Executive
Committee on 16th June 1997
and to come into effect on and from 1st July 1997

CHAPTER 1 INTRODUCTION

Definitions

1.1 In these rules unless the context otherwise requires the following words shall have the following meanings:

Accompanying Adult	shall have the meaning given to It by Rule 21.
Affiliated Association	shall mean any association affiliated to BWSF
Association	shall include any group whether incorporated or unincorporated or howsoever constituted and whether or not such constitution is a form recognised by the law of England
Attendant	shall have the meaning given to it by Rule 19
Banned Method	shall have the meaning given to it by clauses 3 and 4 of these Rules
Banned Substance	shall have the meaning given to it by clause 3 of these Rules
BWSF	shall mean the British Wheelchair Sports Foundation
Chairman	shall mean the Chairman for the time being of the Executive
Drug Control Officer	shall mean the person appointed under Rule 88.2
Executive	shall mean the Sports Executive Committee of the BWSF
Foreign Association	shall mean any association having jurisdiction exclusively outside the United Kingdom affiliated to any of the International Authorities

International Authorities	shall mean the IOC, IPC and ISMWSF
Investigator	shall have the meaning given it by Rule 44
IOC	shall mean the International Olympic Committee
IPC	shall mean the International Paralympic Committee
ISMWSF	shall mean the International Stoke Mandeville Wheelchair Sports Foundation
National Association	shall mean any association having jurisdiction within the United Kingdom affiliated to any of the International Authorities (other than the BWSF)
Official IOC List of Banned Substances Register	shall mean the list issued from time to time by the Medical Commission of the IOC shall mean the Register maintained under Rule 83.
Sports Council	shall mean the UK Sports Council and shall include any Sports Council in any part of the United Kingdom acting under the authority of the UK Sports Council or any person so acting

1.2 In these rules unless the context otherwise requires the masculine shall include the feminine and vice versa. For the avoidance of doubt, where special provisions are made for the taking of samples for one sex, the masculine shall not include the feminine or vice versa.

2. Scope of Competitions and Competitors Covered by these Rules

2.1 The Rules shall apply to:

- 2.1.1 any competition organised exclusively by the BWSF;
- 2.1.2 any competition organised by any Affiliated Association;
- 2.1.3 any training session organised exclusively by the BWSF;
- 2.1.4 any training session organised by any Affiliated Association;
- 2.1.5 any person subject to the jurisdiction of the BWSF or any Affiliated Association.

2.2 Where a competition or training session is organised jointly by the BWSF (or any Affiliated Association) and a third party these Rules shall apply to these persons who are subject to the jurisdiction of the BWSF or any Affiliated Association unless the Executive shall have agreed otherwise with the third party.

2.3 If any person subject to the jurisdiction of the BWSF or any Affiliated Association is subjected to any drug test by the Sports Council or

any International Authority or Foreign or National Association (whether in competition or at a training session or at random or otherwise howsoever) then until such time as any International Authority or Foreign or National Association shall enter upon its own procedure in respect of any infringement of any of the rules of that International Authority or Foreign or National Association these Rules may be applied.

2.4 A person shall be considered to be subject to the jurisdiction of the BWSF or an Affiliated Association if he is

2.4.1 a member of an Affiliated Association; or

2.4.2 taking part in an event organised by the BWSF or an Affiliated Association and is not subject to the jurisdiction of any other National Association in respect of doping control

2.5 A person shall not cease to be subject to the jurisdiction of the BWSF or an Affiliated Association for the purposes of these Rules because:

2.5.1 he is in arrears with any subscriptions due to the BWSF or an Affiliated Association; or

2.5.2 has been suspended for breaches of the rules of the BWSF or the Affiliated Association; or

2.5.3 he resigns from the BWSF or the Affiliated Association at any time after he has been notified that he has been selected to provide a sample for doping control purposes until the procedures set out in these Rules have been completed.

CHAPTER 2 *PROHIBITED SUBSTANCES AND METHODS*

3. Prohibited Substances and Methods

The following substances and methods are prohibited:

3.1 Any substance or method prohibited by the IOC and included in the Official IOC List of Banned Substances;

3.2 Any substance or method prohibited by the IPC;

3.3 Any substance or method prohibited by the ISMWSF;

3.5 The metabolise of any substance prohibited under the foregoing sub clauses

3.4 the methods set out in clause 10 of these rules.

4. Substances above certain concentrations

4.1 Where a prohibition consists of a prohibition of a substance above a Certain concentration the term "Banned Substance" shall mean the substance above that concentration.

Testosterone

5.1 Where there is a finding that the testosterone:epitestosterone ratio in a sample is greater than 6:1, that fact shall be communicated to the sportsman as soon as possible. As soon as possible thereafter the sportsman shall make available to the Drug Control officer (or at the option of the Drug Control Officer a medical adviser selected by the Drug Control Officer):

5.1.1 details of all previous drug tests undergone by the sportsman in the last three years;

5.1.2 the name and address of the sportsman's doctor together with authority for the doctor to discuss the sportsman's medical condition in relation to the finding.

5.2 The sportsman shall be responsible for the fees and expenses of his own medical adviser in connection with the investigation of the finding by the BWSF.

5.3 The sportsman shall submit to a medical examination by a medical adviser appointed by the BWSF in connection with the investigation of the finding at such place and time in the BWSF shall reasonably require. The fees of the medical adviser undertaking the medical examination will be met by the BWSF but the sportsman's costs of attending such examination and any loss of wages or similar losses will be borne by the sportsman. The sportsman may at his own expense have his own doctor in attendance.

5.4 After such finding the sportsman must submit to random out of competition testing for a period of up to four months.

5.5 Any failure by a sportsman to comply with his obligations under rules 5.1, 5.3 or 5.4 shall be deemed to be a refusal to take the test and shall be subject to a sanction accordingly.

5.6 Where the only finding of a banned substance in a sample is that the testosterone:epitestosterone ratio in a sample is greater than 6:1, the power to suspend a sportsman on an adverse report on an A sample contained in rule 30 shall not arise unless the sportsman is deemed by Clause 5.5 to have refused to take the test in which case the power shall arise upon that refusal.

Date of Publication of IOC List

6. For the purposes of the application of these Rules, the Official IOC List of Banned Substances (which also includes prohibited methods) shall be the last published list before the sample is taken. The List shall be considered published for the purposes of these Rules one month after a copy of it has been received at the offices of the BWSF.

Transitional Relief on Changes of Rules

7. If:

7.1 a substance is banned for the first time; or

7.2 a method is prohibited for the first time; or

7.3 the concentration allowed of substance is changed then no offence under these Rules will have occurred if the sportsman can meet the requirements of clause 8.

8. The requirements are that the sportsman can establish that the results of the test are compatible with:

8.1 the use of the substance or method prior to the publication of the ban; or

8.2 the use of the substance in the concentration allowed prior to the publication of the alteration to the rules as applicable.

9. The burden of proof in clause 8 is the balance of probabilities.

Prohibition of Certain Practices

The following practices are prohibited:

10.1 deliberate clamping or obstruction of the catheter;

10.2 deliberate excessive tightening of strapping;

10.3 deliberate twisting or sitting on the sportsman's scrotum;

10.4 deliberately prolonged sitting in the racing chair or on the equipment for the purposes of artificially raising the sportsman's blood pressure;

10.5 any action taken for the principal purpose of artificially raising the blood pressure of the sportsman;

10.6 the use of any substance or method which alters the integrity or validity of urine samples used in doping control

CHAPTER 3 *DOPING OFFENCES*

By the Sportsman

11. A doping offence under these Rules is committed when a sportsman

11.1 has present in his bodily tissues or fluids a Banned Substance; or

11.2 uses or takes advantage of a Banned Method;

11.3 admits having used or taken advantage of either a Banned Substance or a Banned Method within six years of the date when he admits having used or taken advantage of the Banned Substance or Banned Method;

11.4 fails or refuses to submit to doping control after having been requested to do so;

11.5 fails or refuses to comply with the obligations placed on him by Rule 5; or

11.6 fails or refuses to comply with the obligations placed on him by Rule 85.

By Others

12. A doping offence is committed when any person:

12.1 meters or incites a sportsman to commit an offence under Rule 11;

12.2 trades traffics distributes or sells any Banned Substance or provides or carries out any Banned Method otherwise than in the normal course of a recognised trade or profession.

CHAPTER 4 USE OF CERTAIN DRUGS

Where there is Therapeutic Necessity for Banned Substances or Methods

13.1 If an sportsman is entered for an event and for therapeutic purposes is taking a Banned Substance or using a Banned Method, then the organizers of the competition shall be informed in writing no later than one hour before the start of the competition, The Medical Adviser to the competition shall determine on the basis of

13.1.1 the evidence of the performance enhancing potential of the Banned Substance or Banned Method; and

13.1.2 the therapeutic need for the Banned Substance or Banned Method; and

13.1.3 the sport whether the entrant will be allowed to compete. His decision is final and not subject to appeal. Where Banned Substance or Banned Method is allowed, the sportsman shall, if selected for testing, declare the Banned Substance or Banned Method on the form and shall in the comments section state that clearance to compete has been given.

13.2 If there is no Medical Adviser to the competition, the sportsman who makes such a declaration as is mentioned in clause 13.1 may compete. If he/she is asked to provide a sample for analysis and that analysis proves positive because of the presence of the Banned Substance or Banned Method included in the declaration, no doping offence will have been committed if the Medical Adviser to the Foundation is of the opinion that, applying the tests set out in clause 13.1. the sportsman would

have received clearance had there been such a Medical Officer. The sportsman is to have the benefit of any doubt.

Ephedrines & Related substances

14. Where the Banned Substance present in the sportsman's bodily tissues or fluid, is ephedrine, pseudo-ephedrine, phenylpropanolamine or cathine or any metabolite of any of these, the sportsman shall not be guilty of a doping offence if he can establish on the evidence (including the concentration of the substance found) that the substance was present under circumstances which would show that doping was not intended nor was present a result of gross or willful negligence or imprudence. The standard of proof resting on the sportsman shall be the balance of probabilities.

Salbutamol, Salmeterol and Terbutaline

15. Notwithstanding the general prohibition on the use of Salbutamol, Salmeterol and Terbutaline, no doping offence shall be committed by a sportsman who takes Salbutamol, Salmeterol or Terbutaline by inhaler provided that such use either

15.1 is declared to the medical officer in charge of the competition prior to the start of the competition; or

15.2 Has been declared to the Medical Officer of the BWSF within a period of twelve months before the start of the competition.

16. If there is no medical officer in charge of the competition, a sportsman who has not made a declaration under Rule 15.2 may make such a declaration as is mentioned in Rule 15.1 to the organiser of the competition.

CHAPTER 5 *SAMPLING PROCEDURES*

Authorised Methods

17.1 Subject to Rules 18 to 21, samples of urine for analysis under these Rules may be taken in accordance with the procedures approved at the time the sample is taken by

17.1.1 the Sports Council; or

17.1.2 any of the International Authorities; or

17.1.3 any Foreign Association.

17.2 Samples of urine for analysis under these Rules may also be taken in accordance with any other procedure approved from time to time by the BWSF.

Catheters

18. Where a sportsman is using a catheter

18.1 where the catheter is of the condom type, the sample of urine may be taken directly through the catheter into the collecting vessel;

18.2 where the catheter is of any other type using a collecting bag, the collecting bag in use at the time the sportsman presents himself to the drug control officer to provide a sample shall be discarded and a new unused bag attached to the catheter. The urine collected in this new bag shall be transferred to the collecting vessel as the sample.

Blind Sportsmen

19.1 Where a sportsman is asked to provide a sample of urine for analysis under these Rules and he is blind or visually handicapped he shall be accompanied throughout by a sighted person of his choice. Such person shall be known as the Attendant.

19.2 Where the procedure requires anything to be done in the presence of the sportsman it shall in the case of a blind or visually handicapped sportsman be done in the presence of that sportsman and his Attendant.

19.3 Where the procedure requires anything to be done by the sportsman (other than the provision of the urine sample) it may in the case of a blind or visually handicapped sportsman be done by him or at his option by his Attendant.

19.4 Where a blind or visually handicapped sportsman is required to write anything or sign any document, he may either:

19.4.1 write it or sign it himself; or

19.4.2 cause his Attendant to write it or sign it in accordance with instructions given to the Attendant by him,

19.5 If the blind or visually handicapped sportsman chooses to sign any document himself, before he does so it shall be read over to him by his Attendant in the presence of an Independent Sampling Officer or other representative of the body administering the test.

19.6 A note of the fact that the sportsman is blind or visually handicapped shall be made on the form accompanying the sample and the procedure adopted shall also be recorded.

19.7 A blind or visually handicapped sportsman who refuses to produce an Attendant shall be considered to have refused to submit to doping control after having been requested to do so

19.8 The Attendant shall for all purposes be considered the agent of the sportsman

19.9 It shall not be a ground of objection to any test that facilities are not available to read or write in Braille or other methods not requiring

visual recognition of characters unless it was reasonable to make such provisions and the organisers had failed to do so. Even if documents are available in Braille the sportsman shall still be accompanied by an Attendant to watch the processes on behalf of the sportsman.

Other Physical Disabilities

20. If a sighted sportsman is unable by reason of his medical condition to carry out any of the functions imposed on him by the sampling procedure (other than the provision of the urine sample) he may authorize any person in attendance (including the Independent Sampling Officer) to carry out the function on his behalf by his direction and in his presence. This should be noted in the Comments section of the form.

Sportsmen Under 18

21.1 Where a sportsman is asked to provide a sample of urine for analysis under these Rules and he is under 18 at the time he shall be accompanied by an person over 18 of his choice, Such person in this Rule is known as the Accompanying Adult.

21.2 The Accompanying Adult may observe such parts of the proceedings as he shall wish and may communicate freely with the sportsman during such time as the sportsman is providing the sample and undertaking the ancillary paperwork.

21.3 The came of the Accompanying Adult shall be recorded on the paperwork.

21.4 The Accompanying Adult may be the Team Official mentioned in the procedures for the taking of samples but may be in addition to such team official.

21.5 A sportsman under 18 who refuses to produce an Accompanying Adult shall be considered to have refused to submit to doping control after having been requested to do so.

21.6 The Accompanying Adult shall for all purposes be considered the agent of the sportsman.

21.7 A sample shall not be considered as invalidly taken because a sportsman under 18 was not accompanied by an Accompanying Adult. If a sampling officer refuses to take a sample from a sportsman under 18 who was not accompanied by an Accompanying Adult when asked to produce such, such occurrence shall be considered to be a refusal to submit to doping control by the sportsman concerned.

21.8 A sportsman may be required by the sampling officer to prove he is over 18.

Departures From Procedures

22. A departure from any of the procedures mentioned in Rule 17 shall not invalidate the procedure unless this departure was such as to cast real doubt on the reliability of the sampling procedure.

CHAPTER 6 *ANALYTICAL PROCEDURES*

Laboratories

23. The samples taken under the procedures mentioned in Rule 17 shall be analysed in such laboratories as the body taking the sample shall select.

Procedure

24. The analysis of the sample shall be undertaken at such laboratory in accordance with the procedures for such analysis published by the IOC or the IPC at the time the analysis was undertaken. Certification of Laboratories

25. If it is a condition of the procedure that the analysis shall be undertaken at a laboratory approved by the IOC or the IPC, the BWSF shall be entitled to rely on a certificate of the IOC or IPC in appropriate that the laboratory at which the analysis was undertaken was approved for that purpose by the IOC or the IPC as appropriate.

Certificate of Results

26. Where the laboratory issues a certificate or statement of the results of the analysis of any sample, such certificate shall be conclusive proof of the matters stated therein unless the sportsman concerned can show that on the balance of probabilities the certificate is incorrect.

CHAPTER 7 *PROCESSING OF RESULTS*

On Receipt of Analysis of A Sample

27. If the Laboratory shall deliver an analysis of the A sample that shows there are no Banned Substances present and no evidence of the use of Banned Methods in the sample, the Drug Control Officer shall (provided he has an address for the sportsman) notify the sportsman, If the Laboratory shall deliver an analysis that shows the presence of a Banned Substance or evidence of the use of a Banned Method in the sample then the provisions of Chapter 8 shall apply.

*CHAPTER 8 PROCEDURE ON ADVERSE FINDING**Initial Steps*

28. If the Laboratory shall deliver an analysis that shows the presence of a Banned Substance or evidence of the use of a Banned Method in the sample then the Drug Control Officer shall:

28.1 satisfy himself that prima feels the chain of custody for the sample from the time it was taken until it reached the laboratory is in order;

28.2 satisfy himself that prima feels the analysis shows the presence of a Banned Substance or evidence of the use of a Banned Method.

28.3 satisfy himself that no clearance was given under Rule 13 which allowed the use of the Banned Substances or Banned Methods.

29. If the Drug Control Officer is satisfied in accordance with Rule 28, he shall

29.1 notify the sportsman giving the sample In writing that the laboratory has reported the presence of a Banned Substance or evidence of the use of a Banned Method In the sample provided, invite the sportsman to decide whether he wishes to attend the analysis of the B sample and if he does to invite him to attend for that purpose at a date and time to be agreed between the sportsman, the Drug Control Officer and the laboratory and in default of agreement to be a date and time of which not less than seven days notice has been given by the Chief of the Laboratory to the sportsman and the Drug Control Officer.

29.2 notify the Chairman.

Power to Suspend On Adverse A Sample Finding

30. If the Chairman is informed under Rule 29 of an adverse finding in an A sample then subject to rule 5.6 he may by written notice to the sportsman concerned suspend the sportsman from participating in competition until the results of the B sample analysis are known.

Access to the Laboratory

31. If the sportsman cannot attend the testing of the sample "B" then he may send a representative, Whilst every reasonable effort will be made to make the laboratory undertaking the analysis of sample "B" accessible to wheelchairs, an sportsman may not impugn the validity of the test or the procedures by reason only that he was unable to witness the tests because of inaccessibility to wheelchairs.

Blind Sportsmen or Sportsmen Under 18

32.1 If the sportsman is blind or visually impaired he may be accompanied by a sighted Attendant in accordance with Rule 19.

32.2 If the sportsman is under 18 he may be accompanied by an Accompanying Adult in accordance with Rule 21.

Adverse result of B Sample

33. If the Drug Control Officer shall receive an adverse finding on the analysis of a B sample he shall carry out the procedure set out in Chapter 11.

CHAPTER 9 TESTS TO CHECK FOR BREACHES OF RULE 10

Inspection of Sportsmen & Equipment

34. In addition to any other powers, the BWSF may appoint such persons who it reasonably thinks fit to inspect any sportsman and any apparatus he might be using at any stage of any competition (except when the activity is actually taking place) in order to satisfy themselves that no breach of Rule 10 is occurring. A sportsman shall cooperate with any such inspection and a failure to cooperate shall be considered a breach of Rule 10.

Taking Blood Pressures

35. The BWSF may appoint any person who it reasonably thinks fit to take the blood pressure of any sportsman at any stage of any competition (except when the activity is actually taking place) in order to satisfy themselves that no breach of Rule 10 is occurring. A sportsman shall cooperate with any such test and a failure to cooperate shall be considered a breach of Rule 10.

Apparent Breaches

36. If it appears to any such person as is mentioned in Rules 33 or 34 that a breach of rule 10 has occurred, they may:

36.1 draw the attention of the judge, referee or referee in charge of the competition to that fact and such judge or referee shall have the power to disqualify the sportsman from that competition forthwith; or

36.2 they may refer the matter to the Drug Control Officer.

Consequence of reference to Drug Control Officer

37. If the matter is referred to the Drug Control Officer he shall carry out the procedure set out in Chapter 11.

CHAPTER 10 FAILURE TO TAKE TEST AND OTHER DRUG OFFENCES

Failure to submit to doping control

38. If a sportsman shall fail or refuse to submit to doping control after having been requested to do so the facts shall be reported to the Drug Control Officer.

Other doping offences

39. If any evidence appears that tends to show that any person is guilty of an offence under Rule 12 the evidence shall be reported to the Drug Control officer.

Duties of Drug Control Officer

40. If the Drug Control Officer is satisfied from the evidence supplied to him under Rules 38 and 39 and such other enquiries as he may in his complete discretion make that there is a prima facie case that a doping offence has been committed he shall carry out the procedure set out in Chapter 11.

Power to suspend Pending Enquiries

41. The Drug Control Officer shall inform the Chairman that in the Drug Control Officer's view there is evidence that a doping offence may have been committed.

42. If the Chairman is informed under Rule 41 of evidence to suggest that a doping offence may have been committed then subject to rule 5.6 he may by written notice to the sportsman concerned

42.1 if the offence to which the evidence points is a failure or refusal to submit to doping control after having been requested to do so or an offence under rule 11.3 or rule 11.5 suspend the sportsman from participating in competition until the decision of the Executive has been made under Rule 48; 42.2 if the offence to which the evidence points is any other doping offence suspend the sportsman from participating in competition or team sessions or both or attending any event organised by or under the jurisdiction of the BWSF or any Affiliated Association until the decision of the Executive has been made under Rule 48.

CHAPTER 11 POWER TO COMPOUND WITH OFFENDERS

Power to Compound with offenders

43.1 If at any stage of the proceedings prior to the receipt the sample for analysis, a sportsman shall admit in Control Officer or the Chairman that

he has taken a used a Banned Method and undertakes in writing not competition or other activity of BWSF or the ISMWSF or the IPC and any affiliated association of BWSF or the ISMWSF or the IPC for a period of four years from the date of the sample, the Drug Control Officer or the Chairman acting in both cases on behalf of BWSF may accept such admission and undertaking in lieu of any other penalty to which the sportsman would, but for such acceptance, be subject.

43.2 In the event that the Drug Control Officer or the Chairman accepts such admission and undertaking, the BWSF may report such admission and undertaking to the Executive and to the IPC and the ISMWSF and to any Affiliated Association to which the sportsman belongs but shall make no public statement of the subject of such admission or undertaking.

CHAPTER 12 PROCEDURE ON POSITIVE B SAMPLE OR REFERENCE UNDER RULES 37 AND 40

Appointment of Investigators

44.1 If the Drug Control Officer shall receive an analysis from the laboratory of a B sample which appears to indicate the presence of a Banned Substance or the use of a Banned Method or has referred to him the result of an inspection under Chapter 9 or has received evidence under Rule 38 or 39 or has received other credible evidence suggesting that a drug offence has been committed, the Drug Control Officer shall as soon as possible notify the Chairman. After consultation with the Drug Control Officer, the Chairman shall nominate one or more independent people to investigate the circumstances. Such people shall be called Investigators.

44.2 Independent for the purposes of Rules 44 and 53 shall mean

44.2.1 not being related to the sportsman concerned or to any sportsman whose position in the competition at which the sample was taken by the Laboratory of writing to the Drug Banned Substance or to take part in any might be affected as a result of any decision on the positive sample;

44.2.2 not being a member of the club or team of the sportsman concerned or of any club or team whose position in the competition at which the sample was taken might be affected as a result of any decision taken on a positive sample;

44.2.3 not having taken part in the competition at which the sample was taken whether as a sportsman or an official;

44.2.4 not being concerned with the taking of the sample or its analysis;

44.2.5 not being the doctor or medical adviser to the sportsman or any other sportsman whose position might be affected as a result of any decision taken on the positive sample;

44.2.6 not being a person who by reason of the facts or circumstances a reasonable minded person might consider might show bias.

Duties of Investigator

45. Upon his appointment the Investigator shall consider all the facts surrounding the results and shall (unless the sportsman refuses the opportunity) interview the sportsman. The Investigator may with the consent of the sportsman interview any medical attendant of the sportsman and may consider any medical evidence relating to the sportsman. The Investigator shall report in writing upon his findings ("the Report") to the Chairman of the Sports Executive Committee and shall deliver a copy of the Report to the sportsman and to the Drug Control Officer. The Report shall be delivered within one month of the Investigator's appointment or such longer period as the Chairman shall allow.

Departures from Procedure

46. A departure from the procedures set out or referred to in these rules shall not invalidate the finding that a Banned Substance was present in a sample or that a Banned Method has been used or that an offence under Rule 10 has been committed or that a doping offence has been committed unless this departure was such as to cast real doubt on the reliability of such a finding.

Response to Report

47. Within 14 days of delivery of the copy of the Report to the sportsman or the Drug Control Officer, the sportsman or the Drug Control Officer may make written representations to the Chairman of the Sports Executive Committee on the contents of the Report.

Reference to Sports Executive Committee

48. The Report together with any representations received from the Drug Control Officer or the sportsman shall be considered by the Sports Executive Committee as soon as reasonably possible. At that meeting, the Drug Control Officer and the sportsman together (if he wishes) with a representative may be present and may, subject to the overriding powers of the Chairman to order the meeting, take part in the discussion.

Both the sportsman and his representative add the Drug Control Officer shall withdraw and the Sports Executive Committee may deliberate on their decision in private. Only members of Sports Executive Committee may vote on their decision.

49. In reaching their decision the Sports Executive Committee, in order to find the sportsman guilty, must be satisfied beyond reasonable doubt that a doping offence was committed.

Penalty

50. In the event that the Sports Executive Committee shall find the sportsman guilty of a doping offence they shall decide on the appropriate penalty in accordance with Chapter 12 of these Rules. Any suspension will take effect from the date of the decision of the Sports Executive Committee. Any suspension ordered by the Chairman under Rules 30 and 41 shall count against the period of any suspension ordered by the Executive. The event in which the sportsman was competing when the sample was requested shall

50.1 if it is an individual event or an event where individuals are separately scored be rescored on the basis that he had not taken part; or

50.2 if it is a team event the sportsman team shall be disqualified but no other events between that event and the date of the bearing by the Sports Executive Committee shall be affected unless the Sports Executive Committee otherwise decides.

Notification of Decision

51. The decision of the Sports Executive Committee shall be notified as soon as possible to the sportsman and shall be confirmed in writing by a letter to be sent by registered post or recorded delivery or handed to the sportsman personally within 7 days of the decision. A copy of any decision banning a sportsman shall also be forwarded to the IPC within 7 days of its being made.

Sportsman's Right of Appeal

52. If the sportsman shall be found guilty and desires to appeal from the decision of the Sports Executive Committee, he shall give written notice of such desire to the Chairman at the BWSF office within 10 days of the posting of the written confirmation or of handing him the written notice provided in clause 51. The notice shall contain the grounds of his appeal.

Selection of Arbitrator

53. Within 21 days of receipt of such an appeal, the Chairman shall contact the sportsman or his representative and both parties shall use their best endeavours to agree upon an arbitrator who will be independent within the meaning of rule 44.2 and also who has not been involved with the case at any earlier stage, If at the end of 21 days (or such longer period as the Chairman and the sportsman shall agree in writing) they shall not have agreed on an arbitrator, the appointment of the arbitrator who will be Independent within the meaning of rule 44.2 and also who has not been involved with the case at any earlier stage shall be made by the Chairman for the time being of the British Association for Sport and Law.

Exclusion of Right of Appeal to High Court

54. The arbitration shall exclude the right of appeal to the High Court of England under sections I and 2 of the Arbitration Act 1979 and the parties shall before the appointment of the arbitrator is made agree in writing to that effect.

Conduct of Arbitration

55.1 The arbitrator shall conduct the arbitration in accordance with Rules of the IPC (1994 Edition) Chapter 8.1 Rules 9.2.5 to 9.2.10.

55.2 Without prejudice to Rule 54.1 the Arbitrator shall have power to:

55.2.1 set aside any finding that a doping offence has been committed; or

55.2.2 remit any penalty or substitute a lesser penalty for any penalty for that imposed by the Executive provided that the Arbitrator shall have no power to impose a lesser penalty than any minimum penalty provided in Chapter 12.

56. The decision of the arbitrator shall be final and binding on the parties.

57. The costs of the arbitrator shall be borne as he shall direct.

Effect of Appeal on Suspension

58. If the Executive shall have suspended the sportsman, then such suspension shall remain in force until such time as the arbitrator shall direct that it is to be lifted. The arbitrator may order that a suspension shall be lifted until such time as he makes his decision on the appeal.

Absence of Chairman

59. If the Chairman is not reasonably available, his functions under this Chapter may be discharged by a Vice Chairman or if there is no Vice Chairman reasonably available by the Secretary.

CHAPTER 13 *PENALTIES*

Penalties for Using Banned Substances or Banned Methods

60. If a sportsman commits a doping offence under
- 60.1 Rule 11.1 where the substance or one of the substances involved are listed in Rule 61;
 - 60.2 Rule 11.2 (other than those set out in Rule 10.1 to 10.4 inclusive);
 - 60.3 Rule 11.3 where the substance or one of the substances involved are listed in Rule 61;
 - 60.4 Rule 11.4;
 - 60.5 Rule 11.5;
 - 60.6 Rule 12.1 where the substance or one of the substances involved are listed in Rule 61;
 - 60.7 Rule 84 then the sportsman will be suspended from all competition and other activity of the BWSF and any Affiliated Association of the BWSF for a first offence for such period as the Executive shall decide being not less than four years from the date of the provision of the sample or the sanctionable offence and for a second offence for life.

Substances Mentioned in Rule 60

61. The substances mentioned in Rule 60 are
- 61.1 these described in the Official IOC List of Banned Substances under the headings Anabolic Agents; Diuretics; Peptide and Glycopeptide Hormones and Analogues; and Corticosteroids;
 - 61.2 amphetamines (including amineptine, mesocarb, and papidrol) and chemically or pharmacologically related compounds;
 - 61.3 cocaine
 - 61.4 any metabolites of any substance under Rule 61.1, 61.2 and 61.3.

Further Penalties

62. If a sportsman commits a doping offence under
- 62.1 Rule 11.1 where all the substances involved are not listed in Rule 61;
 - 62.2 Rule 11.3 where all the substances involved are not listed in Rule 61;
 - 62.3 Rule 11.6;

62.4 Rule 12.1 where all the substances involved are not listed in Rule 61 then the sportsman will be suspended from all competition and other activity of the BWSF and any Affiliated Association of the BWSF for a first offence for a period of three months from the date of the provision of the sample or the sanctionable offence, for a second offence for such period as the Executive shall decide being not less than two years from the date of the provision of the sample or the sanctionable offence and for a third offence for life.

Penalties Under Rule 12.2

63.1 Any person guilty of an offence under Rule 12.2 involving any substance mentioned in Rule 61 or any Banned Method will be suspended from all competition and other activity of the BWSF and any Affiliated Association of the BWSF for life.

63.2 Any person guilty of an offence under Rule 12.2 involving only substances not monitored in Rule 61 will be suspended from all competition and other activity of the BWSF and any Affiliated Association of the BWSF for a first offence for such period as the Executive shall decide being not less than four years from the date of the provision of the sample or the sanctionable offence and for a second offence for life.

Penalties Under Rule 10.1 to 10.4 (inclusive)

64. If a sportsman commits an offence under Rules 10.1 to 10.4 (Inclusive) the Executive may:

64.1 note the offence and determine to take no further action; or

64.2 warn the sportsman as to his future conduct

64.3 suspend the sportsman from all competition and other activity of the BWSF and any Affiliated Association of the BWSF for such period as the Executive shall think fit save that for the first offence such suspension shall not exceed four years.

Multiple Banned Substances

65. For the avoidance of doubt if a sportsman has used more than one Banned Substance, then, unless all the substances involved are not mentioned in Rule 60, the sportsman shall receive the penalty appropriate to substances mentioned in Rule 61.

*CHAPTER 13 INCIDENTAL MATTERS TO HEARINGS***Rules of Evidence**

66.1 At any consideration of the Report by the Executive, the sportsman may place before the Executive for their consideration evidence in any form provided that he can show that it is relevant to the matters in issue before the Executive. The Executive may determine how much weight (if any) can be given to such evidence. The Executive may also draw such inferences as they may consider justified by any absence of evidence which they consider material but they should invite the sportsman to explain any apparent failure of the sportsman to produce relevant evidence.

66.2 Notwithstanding Rule 66.1, where the test was taken or some material event occurred outside the United Kingdom, a certificate by the Chairman or Secretary or other proper officer of an International Authority or a Foreign Association of the truth of matters set out in the document so certified shall be taken by the Executive to be true until the contrary is proved on the balance of probabilities.

Membership of Executive of Persons Interested In Case

67.1 No objection shall be taken to the fact that a member of the Executive

67.1.1 may be a member of the Affiliated Association to which the sportsman belongs;

67.1.2 may have an Interest as a member of the BWSF or an Affiliated Association in the decision of the Executive;

67.1.3 may have expressed views on doping control in sport generally

67.2 Subject to Rule 67.1, a member of the Executive should not take part in the consideration of the Report if he is not independent as defined In Rule 44.

Sportsman's Power to call Witnesses

68. Subject to satisfying the Chairman that their evidence may be relevant, the sportsman may call witnesses to support his submissions to the Executive.

Chairman's Power to Invite Witnesses

69. The Chairman may invite anyone who may be able to give evidence to assist the Executive to attend the meeting and give such evidence as may be relevant.

Questions to Witnesses

70. The sportsman the Drug Control Officer and the Executive shall have reasonable opportunities to question any witness.

Witnesses' costs

71. Where a witness is called by the sportsman, the sportsman shall be responsible for any costs incurred by the witness in attending.

Legal Representation by Sportsman

72. If the sportsman desires to be accompanied by a lawyer of his choice, he may do so provided that he gives written notice to that effect to the Chairman not later than four working days before the meeting of the Executive at which the Report is to be considered. The lawyers fees shall be paid by the sportsman in all cases.

Legal advice to the Executive

73. If the sportsman gives notice to the Chairman under Rule 72, the Executive may invite a lawyer to be present at the meeting to advise them. If notice is not given under Rule 72, the Executive shall not invite a lawyer to be present unless that has been agreed with the sportsman in advance.

Members of the Executive or Drug Control Officer who are lawyers

74. Notwithstanding Rule 73, no objection shall be taken to the presence at the meeting of the Executive that considers the Report of any member of the Executive who is a lawyer or of the Drug Control Officer if he is a lawyer.

Attendance by Colleague of Sportsman

75. A sportsman attending the meeting of the Executive to consider the Report may be accompanied by:

75.1 a lawyer provided notice has been given under Rule 72;

75.2 a friend;

75.3 if appropriate an interpreter;

75.4 any witnesses (unless they are asked to leave the meeting until they give their evidence)The chairman may allow further people to accompany the sportsman if the Chairman is satisfied that they are reasonably necessary and their presence will not impede the consideration of the Report by the Executive

Privacy of Proceedings

76. The only people who shall be entitled to attend the meeting of the Executive that considers the Report are:

- 76.1 members of the Executive;
- 76.2 secretarial or administrative staff of the BWSF;
- 76.3 the Drug Control Officer;
- 76.4 the sportsman;
- 76.5 anyone authorised under Rule 75.

Public Reporting

77.1 If the decision of the Executive is that no offence under these Rules has been committed its decision of the Executive may be reported to the IPC and to any Affiliated Association to which the sportsman belongs.

77.2 If the decision of the Executive is that an offence under these Rules has been committed its decision of the Executive shall be reported to the IPC and to any Affiliated Association to which the sportsman belongs and may be published.

77.3 Save as provided in Rule 77.1 or 77.2 no report of the deliberations or proceedings shall be made public unless that has been agreed between the Chairman and the sportsman.

CHAPTER 14 *CONFIDENTIALITY OF PROCESS*

General Obligation of Confidentiality for BWSF

78. Except where these Rules otherwise permit, BWSF shall keep confidential all information it obtains about an individual sportsman as a result of the operation of its drug testing programme under these Rules.

General Obligation of Confidentiality on Sportsman

79. Except where these Rules otherwise permit, where a sportsman is notified under Rules 29 or 42 or is approached by an Investigator under Rule 44, he shall keep confidential all information relating to the subject matter of the allegation or enquiry.

Power to Obtain Advice

80. Notwithstanding Rules 78 and 79, BWSF and the sportsman may communicate freely with any person whom they consider might properly advise them about the matters in issue and shall use their best endeavours to ensure that any person from whom they seek advice shall keep matters confidential.

CHAPTER 15 RECOGNITION OF PENALTIES OF OTHER BODIES

General Rule on Recognition

81. Where a sportsman has been the subject of a penalty imposed by an International Authority or a Foreign Association or a Governing Body of a sport within the United Kingdom, he shall suffer a similar penalty under these Rules. A certificate signed by a proper officer of an International Authority or a Foreign Association or a Governing Body of a sport within the United Kingdom and setting out any finding that a doping offence has been committed by the sportsman and/or stating the penalty imposed shall be taken as conclusive of the matters so certified.

Exceptions

82. A sportsman shall not be subject to a penalty under Rule 81 if in respect of a penalty imposed by a Foreign Association he can show to the satisfaction of the Executive on the balance of probabilities

82.1 he was not given any proper opportunity to challenge any evidence in front of the body imposing the penalty; or

82.2 that the penalty imposed by the Foreign Association was one which these Rules did not permit BWSF to impose for that offence.

CHAPTER 16 OUT OF COMPETITION TESTING

The BWSF Out of Competition Register

83. The BWSF shall establish a Register to be called the BWSF Out of Competition Register to be maintained by or under the direction of the Drug Control Officer. The Register shall consist of the name of the sportsmen registered together with their current address from time to time and if applicable their phone numbers,

Sportsmen to be placed on the Register

84. Any sportsman who may be considered for selection to represent the United Kingdom or England or Wales or Scotland or Northern Ireland may be placed on the Register. The BWSF shall give written notice to any sportsman whose name is placed on the Register.

Obligations of Sportsmen On Register

85.1 A sportsman whose name is on the Register shall submit to doping control at any time when required to do so in accordance with the procedures for out of competition testing adopted by any body mentioned in Rule 17.1.

85.2 A sportsman shall not be absent from the address shown on the Register for more than five days without notifying the Drug Control Officer (or the person he may delegate to receive such information) in writing of the sportsman's new address. It is the sportsman's responsibility to ensure that the Drug Control Officer has received the information.

85.3 A sportsman who fails to comply with Rule 85.2 without an explanation satisfactory to the Executive shall be guilty of a doping offence.

Substances Tested For Out of Competition

86. Only substances in the Official IOC List of Banned Substances under the headings Anabolic Agents, Diuretics and peptide and Glycoprotein hormones and analogues and any metabolise thereof will be tested for in an out of competition test.

Banned Methods and Out of Competition Testing

87. Tests may be conducted out of competition in connection with any Banned Method including practices mentioned in Rule 10.

CHAPTER 17 ADMINISTRATION

Overall Control

88.1 Doping control shall be subject to the overall control of the Executive.

88.2 Subject thereto, the Executive shall delegate the management of the doping control programme to a Drug Control Officer.

88.3 The Drug Control Officer may himself delegate part of the programme to such people as he may from time to time select.

Restriction on Reporting Obligation

89. The Executive shall not require the Drug Control Officer (or, in the case of matters undertaken by the Chairman under these Rules, the Chairman) to disclose to them:

89.1 in advance the name of any sportsman to be tested;

89.2 in advance anything whereby a sportsman to be tested could be identified;

89.3 in advance any details of any future testing;

89.4 any material relating to any results that might be the subject of a Report to them in advance of their consideration of that report under Rule 48.

Policy on Selection

90. The Executive shall from time to time adopt a policy for the selection of candidates for doping control.

Modification Of These Rules

91. These rules may be modified from time to time by the Executive. Notice of any change proposed shall be given at least seven days before the motion proposing the change is moved. The rules shall be changed if at least 60% of these present and voting at the meeting of the Executive approve.

Obligations of Affiliated Associations

92. Unless the Executive otherwise agree every Affiliated Association shall adopt these Rules and shall delegate their operation to the BWSF.

CHAPTER 17 LEGAL PROTECTION OF THE BWSF AND ITS OFFICERS

Limitation on Sportsmen's Right To Sue

93.1 Except as provided in clause 93.2, no claim shall be brought against the BWSF or any person acting on its behalf under these Rules or, with the authority of the BWSF, purporting to act on its behalf under these Rules by any sportsman in any Court of Law or Equity whether in contract or tort or otherwise howsoever and whether for damages or other relief of any kind whatsoever unless the sportsman alleges actual fraud on the part of the person sued.

93.2 Rule 93.1 does not apply to any claim for death or bodily injury arising from the negligence of the defendant.